

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application 16214 of Providence Hospital, DePaul Foundation, as amended, pursuant to 11 DCMR 3108.1, for special exceptions under Sections 205 and 206 to establish a child development center of 150 students and 26 staff, and a private school of 150 students and 26 staff in an R-5-A District at premises 4401 8th Street, N.E. (Square 3894, Lots 828 and 814).

HEARING DATE: March 19, 1997
DECISION DATE: May 7, 1997

ORDER

SUMMARY OF EVIDENCE OF RECORD

1. The subject property is located in the Northeast quadrant of the District of Columbia, in the North Michigan Park neighborhood, on the northeast corner of 8th and Varnum streets.
2. Eighth Street is a private roadway within the vicinity of the site. A portion of the roadway makes up part of the subject property.
3. The irregularly-shaped site contains 45,111 square feet (1.03 acres) of land area. At the time of the public hearing, several large tractor trailers were parked on the property. The subject lot is developed with a brick building that contains approximately 38,000 square feet of gross floor area. The building has three levels, a lower level that is partially below grade, a second and a third floor level. The building, known as Brady Hall, was constructed in 1909 and previously used for academic purposes. For approximately six years, the building has been vacant and boarded-up. It has been vandalized and is in need of repair.
4. With regard to the building on the property, an anomaly exists. A portion of the subject building encroaches on 1,100 square feet of the abutting lot, Lot 814. This encroachment dimension exists for all three floors. The balance of the building is on Lot 828.
5. The subject property is neighbor to several institutional uses including: (a) ARC Social Services Center (an organization that works with mentally challenged children); (b) a building under renovation that is to house a health clinic for District of Columbia police officers and fire fighters; (c) Providence Hospital, its power plant facility and parking lot; (d) Saint Catherine Hall; (e) Vincent Professional Building (Bio-Medical Center); (f) Ryan Hall; (g) Ursuline House of Studies;

(h) Catholic Sisters College Ethnic Affairs Center; (i) Scrilli School -- Carmelites' Sisters Daycare Facility; (j) Carmelites' Sisters Residence Building; (k) Carroll Manor Nursing Home; and, (l) the Lt. Joseph P. Kennedy Jr. Institute.

6. The site is zoned R-5-A. The R-5-A District permits matter-of-right single-family detached and semi-detached dwellings, and with the approval of the Board of Zoning Adjustment, low-density development of general residential uses including rowhouses, flats, and apartments to a maximum floor area (FAR) of 0.9, a maximum lot occupancy of 40 percent, and a maximum height of three stories/40 feet. A child development center is a matter-of-right use for up to 15 children in the R-5-A District.

7. The National Child Day Care Association (NCDCA) intends to purchase the property from Providence Hospital and would operate the proposed family center. The NCDCA was incorporated in 1964 as a private nonprofit organization to promote comprehensive child care programs in Washington, DC. NCDCA is the largest nonprofit child care provider in the city, having 19 centers and serving more than 1,500 children ages two to 14 years. NCDCA has a staff of over 270 people, with an annual budget in excess of \$6 million.

8. The mission of NCDCA is to provide quality child care/developmental services to low-income children and their families in the District of Columbia. The organization's goals are:

- o To establish and operate quality child development centers in the areas of greatest need;
- o To educate the public to an awareness and understanding of quality care;
- o To collaborate with other agencies to achieve the highest quality of care for preschool and school-age children;
- o To act as a consultant to other organizations providing services to children and families; and
- o To advocate for the continuation and growth of good day care facilities through community action and legislation.

9. The National Child Day Care Association provides comprehensive services which include education, parent involvement, social services, health services, disabilities services, and nutrition.

10. The applicant proposes to establish a child development center for 100 children and 40 employees and a private school for 50 students and 12 staff, a total of 202 people. As originally planned, the project was advertised for 150 children and 26 staff in the child development center, and for 150 students and 26 staff in the private school, a total of 352 people.

11. A health clinic would occupy approximately 3,000 square feet of the subject building. The clinic would provide services to the children and parents of the child development center and the private school. A clinic is a matter-of-right use in the R-4 District and therefore permitted in the R-5-A District.

12. The first floor (lower level) of the subject building would be used primarily for the proposed child development center. The child care facility would be established for children who are three to five years old. It would operate between the hours of 7:00 a.m. and 8:00 p.m., Monday through Friday, and 10:00 a.m. to 2:00 p.m. on Saturday. The applicant indicated that the child care center would serve 15 children on Saturdays to allow parents to attend classes. The staff of the child development center would consist of administrators, counselors, teachers, cooks, health care professionals, and support personnel. A full-service kitchen would prepare two daily meals for the children.

13. The second or ground floor would contain the medical clinic, a portion of the child development center, and a portion of the private school. The private school would provide a curriculum for the parents geared toward enabling them to enter the work place. The classes would be structured to provide training on employment, parenting, and life skills. In addition, students would be given an opportunity to earn a high school diploma. The ages of the students would vary, starting at 18 years old. Classes would be held for parents in two sessions during the weekday (Monday through Friday), and one session on Saturday. The weekday sessions would be held from 7:00 a.m. to 1:00 p.m. and 4:00 p.m. to 8:00 p.m. The single session on Saturday would be held from 10:00 a.m. to 2:00 p.m.

14. The third floor of the building would house most of the private school and administrative office space.

15. The applicant indicated that the following chart summarizes the approximate amount of space that the uses would occupy:

Proposed Building Usage	Approx. No. of Gross Sq. Ft.	Percentage of Gross Sq. Ft.
Child Develop. Ctr.	23,370	60.7
Private School	8,820	22.9
Medical Clinic	3,000	7.8
Encroachment Space (Matter-of-Right Uses)	3,300	8.6
TOTAL	38,490	100.0

16. The applicant described specific details of the project and indicated that the proposed family center would not adversely affect the North Michigan Park neighborhood. The following summarizes the applicant's discussion:

Parking and Transportation

Chapter 21 of the Zoning Regulations requires that the applicant provide two on-site parking spaces for every three teachers and other employees for the private school. The private school use of the building would employ 12 teachers and staff; accordingly, eight parking spaces are required. Based on the Regulations, the child development center is required to have one parking space for each four teachers, and other employees. The number of staff at the child development center would be 40; ten parking spaces are required. A total of 31 parking spaces are provided on-site. The applicant indicated that the breakdown of the parking spaces is as follows: 11 spaces for the child development center, eight spaces for the private school, two spaces for the center's two vans, and ten spaces for the medical clinic.

The project's traffic engineer testified that ten off-street parking spaces would be provided for the child development center. It is not anticipated that there would be a heavy demand for visitor parking spaces. The majority of visitors to the center would be parents who most likely would spend a limited amount of time dropping off and picking up their children. The National Child Day Care Association's experience with the operation of other centers indicates that public transportation is used by most parents. The testimony indicated that there is excellent metrobus service in the area; and that the bus routes feed into the Brookland-CUA and

Fort Totten Metrorail stations.

Testimony was given stating that the child development center is located and designed to include a designated curb side drop-off and pick-up area directly in front of the building, off the private drive known as 8th Street.

The applicant's traffic witness stated that the center has a well-developed policy for the dropping-off and picking-up of children by automobile, and that the policy requires the children to be escorted by an adult into the center where they are signed in. The policy assures the safety and security of the children.

Testimony was presented indicating that, at the intersection of 10th and Varnum streets, traffic backs-up going to Providence Hospital and the other institutional facilities in the area during a.m. and p.m. peak hours. This intersection, as well as the 12th and Varnum streets intersection, would be the most likely roadways people would use to get to the site.

The project's traffic expert indicated that once a week the kitchen would receive deliveries of food supplies by a tractor trailer sized truck. Also, the center would utilize two minivans in the operation of the kitchen. The traffic expert concluded that all food deliveries to the center would occur off-street, and would be scheduled at times so as not to impact on the surrounding street system.

Noise

The applicant testified that the building and its outdoor play space were adequately separated from the nearest residential dwellings by distance and landscaping. The children's outdoor activities would be conducted under staff supervision. The children would not have to travel off-site to play. Accordingly, there would be limited noise associated with the proposed family center.

The applicant testified that except during outdoor play times, the majority of the center's activities would occur within the building. The building is constructed of natural sound insulating masonry, and once renovated, would be climate-controlled.

The applicant indicated that it proposes to renovate the building at an estimated cost of \$2 million. The renovation would include installing new heating and cooling systems, roof repairs, and window insulation. The repairs, in addition to the building's masonry construction would significantly reduce the chances of any noise emanating from the building.

Proximity to Residential Dwellings and Abutting Properties

The testimony indicated that the subject property does not directly abut any residential dwellings which could be negatively impacted by the operation of the proposed center. The play area would be located in a fenced area on the north side of the building, approximately 300 feet from the nearest dwelling on Varnum Street.

The applicant testified that the subject property abuts an existing child development center on its north side, at 4407 8th Street, NE. The Scrilli School of Our Lady is next door and is operated by the Carmelite Sisters. The Scrilli School was approved to operate under BZA Order No. 15286, dated May 7, 1990. It is licensed for 65 children, and has 60 enrolled. The students in attendance at the Scrilli School come from throughout the District of Columbia and Maryland. Several of the school's children have parents employed at Providence Hospital. It is the applicant's belief that the side-by-side operation of the proposed and existing centers would not have an adverse impact on the neighborhood due to traffic, noise, operations, or other similar factors.

Based on the record, the 38,000 square foot, three-story structure is situated on over an acre of land, and was originally used as a college classroom and dormitory building. The building allows for the layout of spacious classrooms, teacher and administrative offices, and activity areas for students and faculty.

Aesthetics

The applicant's architect testified that the building in which the center is proposing to locate has contributed, architecturally, to the community's institutional character since the early 1900s. The testimony indicated that the newly renovated building, including its well-landscaped grounds, would be an attractive addition to the fabric of the neighborhood.

Compliance with the Comprehensive Plan

The applicant stated that the project is consistent with the policies and objectives of the Comprehensive Plan -- specifically, the human services and land use elements. In addition, the property is located within the area designated for institutional use on the Comprehensive Plan Generalized Land Use Map.

17. The record indicates that the Mount Moriah site, one of the centers that the National Child Day Care Association operates in the Ward 5 section of the city, would be closed as a result of opening the proposed facility.

18. As proposed, the National Child Day Care Association's centralized kitchen for its satellite centers would be located at the site. Exhibit No. 27, Section I of the record indicates that the centralized kitchen would prepare over 300,000 meals [annually] for the child care centers, the United Planning Organization, and the D.C. Public School's Head Start Program. (Daily, under 1,000 meals would be prepared.) The kitchen space is planned for under the component of the application that addresses the child development center.

19. The United Planning Organization (UPO) submitted correspondence into the record stating that the organization strongly supports the application. UPO's reasons for supporting the application are: (a) NCDCA has run high quality child development programs throughout the District of Columbia for more than 30 years and will establish a state-of-the-art program at the site; (b) the District government is mandated to prepare former welfare recipients to become employable and to provide them with jobs almost immediately, thus the applicant should be applauded for its efforts in assisting to achieve this goal; (c) and, the site is ideal for the proposed facility because it is near public transportation and has more than enough on-site parking spaces to accommodate the proposed center.

20. By correspondence dated February 19, 1997, Harry L. Thomas, Sr., Councilmember for Ward 5, recommended approval of the application. The Councilmember indicated that the center would work in the interest of strengthening families, present opportunities for job creation in the community, and represents an innovative approach in addressing problems associated with today's families.

21. By memorandum dated March 12, 1997, the Office of Planning recommended conditional approval of the application. The planning office stated that the site was previously used for institutional purposes and that approval of the application would allow the same type of uses to continue. It was the opinion of the Office of Planning that traffic-related issues are of significant neighborhood concern. Further, the coexistence of all of the institutional facilities with the surrounding residential neighborhood is of concern to both residents and businesses. The Office of Planning recommended that a study of traffic patterns be conducted in the vicinity of the site. The planning office further indicated that the project would not be the sole generator of traffic in the area; therefore, it should not be held hostage until the completion of such a study.

The Office of Planning testified that the Zoning Regulations do not specifically identify the type of facility that the applicant is proposing -- a Comprehensive Child and Family Development Center. The record indicates that the proposed center would provide child care services, counseling for adults, social and health services. All of these interrelated family services are not addressed under one umbrella in the Regulations.

The Office of Planning recommended that the project be approved with the following eight conditions:

1. Approval shall be for a period of five years.
2. The number of children at the child development center shall not exceed 100, and the number of staff shall not exceed 40.
3. The number of students attending the private school shall not exceed 50, and the number of staff shall not exceed 12.
4. The hours and days of operation shall not exceed 7:00 a.m. to 8:00 p.m., Monday through Friday, and 10:00 a.m. to 2:00 p.m., on Saturday.
5. Parking shall be provided as identified on the site plan marked as Exhibit K. At least 18 spaces must be maintained on the site at all times for the exclusive use of the child development center and private school.
6. The children shall be escorted into the building by a staff member when they are dropped off.
7. All outdoor activities shall take place under staff supervision.
8. The applicant shall meet regularly with members of ANC 5C and other interested residents to discuss issues of mutual interest.

22. The Department of Public Works (DPW) by memorandum dated April 9, 1997 stated it has no objection to the applicant's proposal. DPW indicated that from a traffic perspective, the subject proposal should not significantly impact the traffic conditions that already exist in the neighborhood.

DPW reviewed the applicant's traffic report with regard to trip generation and estimates that approximately 60 vehicles will be generated by the project during the a.m. and p.m. peak hours. DPW assessed the existing capacity of the street system leading to and from the site, and indicated that all adjacent intersections are operating at a good level of service during both morning and evening peak hours. The addition of the 60 vehicles generated by

the project will have a negligible impact at the intersections of 10th and Varnum and 12th and Varnum in terms of capacity and level of service.

DPW indicated that Metrobus Route 80 operates on 12th Street which loops around Providence Hospital adjacent to the project. The route links the site to both the Brookland/CUA and the Fort Totten Metrorail stations. DPW concluded that the project is accessible to public transportation.

DPW's report stated that the applicant will provide 31 parking spaces compared to 28 required by the Zoning Regulations. The Department stated that some of the parking spaces (one through four) as shown on the project's site plan may not be accessible due to the restricted aisle width. Accordingly, the potential for parking overflow on the residential neighborhood exists when demand exceeds the capacity of the facility. DPW noted that all drop-off and pick-up activities will be provided on-site, away from Varnum Street. The Department recommended that children's parents be encouraged by the day care provider to use the drop-off and pick-up area to minimize creating congestion on the public street.

23. The Department of Human Services (DHS), by memorandum, indicated that it is supportive of the application with the understanding that the facility complies with applicable code and licensing requirements. DHS stated that it applauds the NCDCA commitment to addressing the urgent need for child care in the city, especially as it is associated with welfare reform.

24. Advisory Neighborhood Commission (ANC) 5A in correspondence to the Board and in oral testimony at the public hearing recommended denial of the application. The ANC indicated that it supported the residents of the North Michigan Park neighborhood who are adamantly opposed to the project. The community representatives indicated that Brady Hall should be torn down and a community park developed on the site. The ANC identified contradictory information, traffic and parking, safety, and unresolved legal issues as major areas of concern. The ANC discussed those issues as follows:

Contradictory Information: The information filed with the Board was altered several times. Specifically, the applicant gave conflicting information about how the building would be used, the number of students and staff. The community's sentiments are that NCDCA representatives are incapable of and unwilling to earnestly and truthfully present all of the facts about the project.

Traffic and Parking: The Carroll Manor Nursing and Rehabilitation Center (a 240-bed retirement home) is a large building that was opened in 1996 in proximity to the site. The Home, which is owned by Providence Hospital, has caused vehicular traffic in the residential neighborhood to increase. Further, the

opening of the planned police and fire clinic would bring even more traffic. The project would add traffic to an area already experiencing traffic-related problems.

There are many institutional facilities that are located in proximity to the site. In addition, public parking spaces for 88 vehicles are located in the midst of the community. The residential neighborhood is saturated with institutional-related traffic. Further, Varnum to 8th Streets is the route for emergency (fire and police) vehicles into the community. The closure of this route would create a critical safety issue for the community.

A traffic study, initiated by the ANC, was conducted on the 10th of March in the vicinity of the site. The community representatives indicated that the study found substantial traffic on Varnum and 10th streets. Particularly troublesome is the cul-de-sac in front of the site. It is difficult to turn around in this area, especially for large trucks.

The Vincent Hall Dialysis Center operates daily from morning to night in the community. As a result of the current heavy volume of traffic to and from the center, the residents of Taussig and Urell places are experiencing an influx of non-residential traffic on their streets.

Safety: The community recently experienced a rise in the number of robberies and assaults by transient individuals. The proposed facility would bring nonresidents into the community on a continuing basis. Thus, there is the potential for increased criminal activity in the neighborhood.

Unresolved Legal Issues: Two portions of the building, in the rear, sit on the Carmelite Sisters' property.

25. The Institute of Our Lady of Mt. Carmel was represented by counsel at the public hearing and submitted correspondence into the file. The Institute (a Convent and the Scrilli School) is the proprietor of property located adjacent to the subject site at 4407-4425 8th Street, N.E.

The Institute expressed the following concerns about the subject project: (a) to its knowledge, a study had not been done identifying the need for a day care center/clinic facility immediately adjacent to its property; (b) the necessity to locate a clinic adjacent to Providence Hospital (one of the premier health care facilities in the city) has not been demonstrated; (c) there has not been adequate consideration of the impact of the increased traffic on the Scrilli School; (d) a private access to the Scrilli School exists from Varnum Street which the applicant intends to use; (e) approximately 1,000 square feet of the subject building is sitting on land that is owned by the Institute; and, (f) the

applicant would start construction on the project and not be able to complete the work because of title problems.

FINDINGS OF FACT:

Based on the evidence of record, the Board finds as follows:

1. Revisions were made to the originally submitted project (e.g., number of children, students and staff). The revisions, however, were made to refine the project and to respond to concerns raised by residents of the community.
2. The site was used previously for education-related purposes and the applicant proposes to continue a similar use.
3. The proposed center is not inconsistent with the city's Comprehensive Plan.
4. Most of the children attending the child development center would arrive by public transportation or walk, accompanied by an adult. Approximately one-half of the children who would be attending the center live in Ward 5. The applicant's traffic analysis (including its supplemental report) and the report of the Department of Public Works indicate, conclusively, that the proposed project would not significantly impact the traffic conditions that already exist in the neighborhood.
5. The applicant would provide an adequate number of parking spaces.
6. The applicant has a well-developed policy for the drop-off and pick-up of the children who would be in attendance at the child development center, as identified in Exhibit No. 44, Section C. Based on the record, there is adequate room on the site to assure that vehicles would never be required to queue on Varnum Street. The children would be escorted by an adult into the child development center and received by a staff member.
7. Based on Exhibit 44, Section D of the record, trucks would be able to access and leave the site safely without adversely affecting adjacent properties and without major disruption to the existing rights-of-way.
8. The proposed child development center would not endanger the safety of children attending the Scrilli School. Traffic would be routed away from the adjacent children's play area, adequate on-site screening would be provided. Both buildings are separated by approximately 75 feet, and both sites are large enough to harmoniously accommodate both facilities.

9. The operation of the kitchen would only be used in conjunction with serving meals to the children attending NCDCA programs at the subject site. The kitchen would not be used to service any other off-site uses including other NCDCA sites in the city.

10. A health clinic is a matter-of-right use in the R-4 District and therefore permitted in the R-5-A District. Approximately 3,000 square feet of the building would be used for this purpose. The clinic would consist of members of the medical or dental professions associated for the purpose of conducting a joint practice. The clinic would contain a diagnostic center, in addition, may contain research, educational, minor, surgical, or treatment facilities. All of the clinic's facilities would be limited to the treatment and care of out-patients. The clinic would be open to the general public; however, the clinic's family care services would be an integral part of the proposed child development center and private school programs.

11. The issues associated with easement and encroachment of the subject building on the abutting property are not within the purview of the Board's jurisdiction to resolve.

12. The property has been vacant for approximately six years and the applicant has made reasonable efforts to market it. The building requires significant economic investment to become viable, and the National Child Day Care Association apparently has the financial commitment to undertake the project.

13. Razing the building and developing a public park on the site is not a viable alternative for use of the property.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and evidence of record, the Board concludes that the applicant is seeking special exceptions under Sections 205 and 206 of the Zoning Regulations to establish a child development center for 100 children and 40 staff, and a private school for 50 students and 12 staff at the site. The special exceptions must meet the criteria set forth in Section 3108 of the Zoning Regulations which requires that the application be in harmony with the general purpose and intent of the Zoning Regulations and Map and not tend to adversely affect the use of neighboring property. In addition, the Board must find that the application complies with Sections 205 and 206 of the Zoning Regulations.

The Board concludes that the applicant has met the burden of proof, and as conditioned below, the proposed project will not cause objectionable impacts because of noise, traffic, parking and number of students.

The Board concludes that a private school and a child development center are compatible uses in a residential district. The special exceptions requested are in harmony with the general purpose and intent of the Zoning Regulations and Map and as conditioned by this order, will not have adverse effects on the surrounding properties. The uses are consistent with the intent and purpose of the Zoning Regulations.

The Board concludes that it has accorded ANC 5A the "great weight" to which it is entitled. Accordingly, it is hereby **ORDERED** that the application is **GRANTED**, subject to the following conditions:

1. Approval shall be for a period of **TEN** years.
2. The number of children enrolled at the child development center shall not exceed 100, and the number of staff shall not exceed 40.
3. The number of students enrolled at the private school shall not exceed 50, and the number of staff shall not exceed 12.
4. The hours and days of operation shall be between 7:00 a.m. and 8:00 p.m., Monday through Friday, and 10:00 a.m. and 2:00 p.m., on Saturday.
5. Parking shall be provided as identified on the site plan marked as Exhibit 27, Section K. At least 18 spaces must be maintained on the site at all times for the exclusive use of the child development and private school.
6. The children shall be escorted into the building by a staff member or parent when they are dropped off.
7. All outdoor activities shall take place under staff supervision.
8. The applicant shall meet regularly with members of ANC 5A and other interested residents to discuss issues of mutual interest.
9. The applicant shall enforce the parking and drop-off mitigation plan proposed for the child development center.

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VOTE: 3-1 (Sheila Cross Reid and Susan Morgan Hinton to grant; Herbert M. Franklin to grant by absentee vote; Laura M. Richards opposed to the motion by absentee vote; Angel F. Clarens not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER: AUG 14 1997

PURSUANT TO D.C. CODE SEC.1-2531 (1987), SECTION 267 of D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

ORD16214/BAB

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 16214

As Director of the Board of Zoning Adjustment, I certify and attest that on AUG 14 1997 a copy of the order entered on that date in this matter was mailed first class postage prepaid to each person who appeared and participated in the public hearing concerning the matter, and who is listed below:

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MADELIENE H. DOBBINS
Director

DATE: AUG 14 1997